

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 7, Rito de Tierra Amarilla

NOTICE AND ORDER TO SHOW CAUSE

To: United States of America
David W. Gehlert, Esq.
United States Department of Justice
Environmental and Natural Resources Section
1961 Stout Street, Floor 8
Denver, CO 80294

Priority Dates:

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority dates for any of the community or private ditches in the Rito de Tierra Amarilla Subsection of Section 7 ("Tierra Amarilla Subsection"), including the priority date of any individual irrigation water rights under those ditches, as described below:

DITCH

PRIORITY DATE

Ismael Ulibarri Ditch
Sena Ditch
Nutritas Ditch No. 1

1870
1870
1870

Unnamed Ditch No. 1	1870
Lujan Ditch	1870
Labrier Ditch	1870
Nutritas Ditch No. 2	1861
Tierra Amarilla Community Ditch	1861
Trujillo Ditch	1887
Manzanares Ditch	1887
Unnamed Ditch No. 2	1887
Briggs Ditch	1887

These priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless you or other parties file objections.

Irrigation Water Requirements:

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in the Tierra Amarilla Subsection as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.05 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.63 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.38 acre-feet per acre per annum.

The term "Consumptive Irrigation Requirement" ("CIR") refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term "Farm Delivery Requirement" ("FDR") refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the

consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons, you will be notified of the objections and may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes the elements of the water rights for surface water irrigation use in the Tierra Amarilla Subsection as described above. If you disagree, you must follow the instructions below.

In the absence of any objections, you will have no other opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Tierra Amarilla Subsection, and subsequent *inter se* proceedings in the Tierra Amarilla Subsection will not include the opportunity to object to those determinations.

Notwithstanding the above, the United States shall have no obligation to raise an objection to the determination of priority dates and irrigation water requirements described above in its capacity as trustee for the benefit of Ohkay Owingeh (Pueblo of San Juan) or any other Indian nation. Any such objection may be raised during stream system wide *inter se* proceedings or other applicable *inter se* proceedings as may be ordered by the Court.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated

above, or to the irrigation water requirements for surface water irrigation use in the Tierra Amarilla Subsection as stated above, you must file a written objection with the Court. You must file your objection, if any, with the Federal District Court by **July 31, 2010**. If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court.

A handwritten signature in black ink, appearing to read "Bruce D. Black", written over a horizontal line.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved:

/electronic signature/
VICKIE L. GABIN
SPECIAL MASTER